

Medi-Cal Program Guide (MPG) Special Notice 06-13

July 24, 2006

Subject	County Medical Services (CMS) Lawsuit Retro Case Processing
Effective Date	April 7, 2006
Reference	County of San Diego, Superior Court Case No. GIC841583 - Class Action Lawsuit regarding CMS denials occurring during the period January 24, 2004 through November 30, 2005 due to excess income.
Purpose	The purpose of this Special Notice (SN) is to provide instructions for processing cases affected by this lawsuit.
Background	<p>On January 24, 2005, a class action lawsuit was filed against the County of San Diego in San Diego Superior Court. The lawsuit was certified as a class action on behalf of individuals who, since January 24, 2004, were previously denied eligibility for the CMS program based on the income limits in effect at that time, and who thereafter paid for their own care and/or incurred debt to health care providers for such care.</p> <p>On December 21, 2005, the court ruled that the former income eligibility standards for the CMS program failed to meet the applicable legal standard and ordered the County to establish new income eligibility standards. With MPG Letter #588, the County established and implemented new income eligibility standards for the CMS program effective December 1, 2005.</p> <p>Additionally, the County is required to mail Class Action Claim Forms (Attachment B1 & B2) to all persons who were denied CMS based on excess income on or after January 24, 2004 through November 30, 2005. A re-determination of income eligibility to CMS shall be completed for individuals who return a claim form and are determined to meet the class member definition, based on the new CMS income standards.</p> <p>The County conducted a mass mailing of claim forms to 5,843 potential class members on May 22, 2006. Potential class members are CMS applicants who were denied CMS eligibility based solely on excess income during the period January 24, 2004 through November 30, 2005.</p>

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Class Member Definition As defined in the court order, a CMS Lawsuit Class Member is “an individual who, since January 24, 2004, has been denied eligibility for health care through the CMS program based on the income limits used by the County at that time, and who thereafter paid for their own care and/or incurred a debt to health care providers for such care”.

Furthermore, to be eligible as a class member, the patient must have submitted a completed Lawsuit Claim Form and must have answered YES to both Questions 1 and 2 as well as answered YES to either or both Questions 3 and 4.

Case Handling Procedures

Cases meeting the criteria set forth in the court order shall be reviewed by a team of three Workers under the direct supervision of the CMS Program Specialist II. This team is referred to as the Retro Team.

There are three different application types: Hospital cases (DSS), Clinic cases (DHS), and Emergency Room Treat & Release cases (ER). Each application type requires a different case handling process.

- **DSS** cases are cases with WCDS history. These cases have been requested and are being held in Suite 210 at 8840 Complex Drive. DSS cases are barcoded with a specific WCDS case number (MA-3 aid type) and were tracked prior to CalWIN Go-Live via WCDS (SS54) case tracking system.
- **DHS** cases are clinic cases set up much like a pencil file, tracked by patient name and social security number only. Active clinic cases are held at the clinic site and will need to be requested upon receipt of the completed Lawsuit Claim Form from the patient. It is anticipated that the majority of the clinic cases however remain in a denied status held at the off-site storage facility, Iron Mountain. These cases will be requested from Iron Mountain upon receipt of the completed Lawsuit Claim Form from the patient.
- **ER** cases consist only of the CMS-35 & CMS-36 and are held with Americhoice (ASO), tracked by patient social security number. Upon receipt of the completed Lawsuit Claim Form from the patient, these forms will be requested from the ASO.

All case actions related to the lawsuit shall be fully narrated in the case record by the Retro Team worker and all documentation shall be retained for a period of 7 years.

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Required Actions

As required by the court order, the claimants shall be given 60 days from the date of mailing to return their completed Lawsuit Claim Form along with all documents needed to complete the eligibility determination and reimbursement process. An additional 30-day silent grace period will also be provided.

The Retro Team worker will use the manual letter CMS-16L (Attachment F1 & F2), as the initial request for verifications, to inform Eligible Class Members that they have 10 days from the date of the letter to provide the verifications needed to complete the eligibility determination and process their claim. If the verifications are not received, the Retro Team will send Form CMS-22L (Attachment G1 & G2) as the second request, allowing only 10 more days before denial of the claim.

All persons who were denied solely due to excess income during the Lawsuit period who return a completed Lawsuit Claim Form will have their application reevaluated based on the increased income limits. If income is at or below 135% of the FPL in effect for that time period, as shown on the table below, the case will be approved with a 6-month standard certification, as otherwise eligible.

Eligibility Period	135% FPL for Single Adult	135% FPL for Married Couple
01/24/04-06/30/04	\$1,011	\$1,364
07/01/04-06/30/05	\$1,048	\$1,405
07/01/05-11/30/05	\$1,078	\$1,445

The re-determination of income eligibility to CMS shall be completed within 60 days of receipt of the completed claim form.

All returned mail will be reviewed and resent whenever possible. The Retro Team will clear all available systems (CalWIN, MEDS, IDX) for new address/phone number. If a new address is found, Retro Team will resend, reset timeline, and notate change on the Tracking Log (Attachment I). Claim forms sent out a second time will be tracked for return within 60 days from the date of mailing.

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Notification Requirements

If it is determined that the claimant does not meet the class member definition set forth by the court, the Retro Team shall send Notice of Action CMS-39 LD (Attachment D1 & D2) to all persons determined ineligible as a class member.

Upon completion of the eligibility determination, Notice of Action CMS-39L (Attachment E1 & E2) shall be sent to all persons who meet the class member definition and who have otherwise been determined eligible or ineligible to CMS.

The Retro Team worker shall give the “**Notice of Privacy Practices**” to all individuals who are certified or recertified for CMS as required under the Health Insurance Portability and Accountability Act (HIPAA). The worker must document on the Retro Team Narrative (Attachment H) the date the notice was given.

CMS enrollment is not automated therefore the Retro Team worker must send form CMS-4 to the ASO to update eligibility information on IDX. A special notation shall be made on each form to denote this as a Retro Team case. A new Eligibility Site, 0100, has been created for use in IDX and will be used for all approvals. This unique Eligibility Site will be used for tracking eligibility and payments for the patients approved under this project.

Tracking Log

A Tracking Log has been created to record the disposition for each Lawsuit Claim Form received. The Retro Team shall record all class member determinations, eligibility approvals, and eligibility denials on this log. Total net countable income used in the determination shall also be recorded for all excess income denials.

Referral Number

A toll free phone number has been established for general information inquiries. The number is 1-800-587-8118. Callers will be directed through a system of prompts to leave their name and phone number so that a Retro Team member may return their call on or before the next business day.

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Forms Impact The following forms were created or modified for use specifically for Retro Team case processing:

Attachment A1	Lawsuit Notice of Judgment (English)
Attachment A2	Lawsuit Notice of Judgment (Spanish)
Attachment B1	Lawsuit Claim Form (English)
Attachment B2	Lawsuit Claim Form (Spanish)
Attachment C1	Lawsuit Public Notice (English)
Attachment C2	Lawsuit Public Notice (Spanish)
Attachment D1	CMS39-LD (English) Class Member Denial NOA
Attachment D2	CMS39-LD (Spanish) Class Member Denial NOA
Attachment E1	CMS39-L (English) Eligibility Approval/Denial NOA
Attachment E2	CMS39-L (Spanish) Eligibility Approval/Denial NOA
Attachment F1	CMS16-L (English) 1 st Request for Verifications
Attachment F2	CMS16-L (Spanish) 1 st Request for Verifications
Attachment G1	CMS22-L (English) 2 nd Request for Verifications
Attachment G2	CMS22-L (Spanish) 2 nd Request for Verifications
Attachment H	Retro Team Narrative
Attachment I	Tracking Log

Appeals Impact There is no change from the current appeals process for all issues regarding eligibility.

Appeals regarding denial of class member status will be reviewed by the CMS Program Specialist II.

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Quality Assurance

All eligibility determinations will be reviewed by the CMS Program Specialist II prior to IDX notification.

Manager Approval**ORIGINAL SIGNED BY****VICKI MIZEL, ASSISTANT DEPUTY DIRECTOR**

Medical Care Program Administration
Strategic Planning and Operational Support

ORIGINAL SIGNED BY**DANN CRAWFORD, ASSISTANT DEPUTY DIRECTOR**

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